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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/685,953 | 10/12/2000 | Albert Gordon Greenberg | 104975 | 5959 |

7590 03/09/2005
Oliff & Berridge PLC
P O Box 19928
Alexandria, VA 22320

EXAMINER

PATEL, AJIT

ART UNIT PAPER NUMBER

2664

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|----------------------------------|--|
| Office Action Summary | Application No. | Applicant(s) ⁴ | |
| | 09/685,953 | GREENBERG ET AL. | |
| | Examiner | Art Unit | |
| | AJIT G. PATEL | 2664 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13, 18-25 and 31 is/are rejected.
- 7) ☐ Claim(s) 8-12, 14-17, 26-30 and 32-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/9/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-7,13,18-25 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Low et al (newly cited, U.S. Pat. # 6,798,771).

Regarding claims 1 and 19, Low et al disclose call setup gateway for telecommunications system comprising a packet switched device that operates using Internet Protocol, wherein the packet switched device manages communication resources (90,43 of fig. 16A); and a circuit switched device that provides physical switching between a plurality of ports based one or more commands from the packet switched device (PSTN of fig. 16A).

Regarding claims 2 and 20, Low et al disclose the limitation “wherein the circuit switch device determines one or more commands to at least one of establish, maintain,

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restore and break down one or more communications paths based either on a condition of a network or a routing request (col. 1, lines 59 through line 14, col. 2; lines 49-55 of col. 3)".

Regarding claims 3 and 21, Low et al disclose the limitation "wherein the communications resources is at least one of the circuit switched device, another communications node, at least one routing table, at least one cross connect mapping and at least one logical connection between communication nodes" (col. 20, line 62 through line 2, col. 31; fig. 13).

Regarding claims 4 and 22, Low et al disclose the limitation "wherein the circuit switched device is at least one of an optical or electronic cross connect, a optical or electrical add drop multiplexer, an optical or electronic frame forwarder, a gigabit Ethernet device, an Asynchronous Transfer device, a label switch forwarding device and a SONET device" (lines 9-29, col. 1).

Regarding claims 5 and 23, Low et al disclose the limitation "wherein only the circuit switched device passes a service data between the plurality of ports" (94 of fig. 16B).

Regarding claims 6 and 24, Low et al disclose the limitation "wherein packet switched device transfer a service data between the plurality of ports" (91,90 of fig. 16B).

Regarding claims 7 and 25, Low et al disclose the limitation "wherein the packet switched device sends the one or more commands to at least one other

communications node" (In fig. 16B, the internet comprising of many nodes, and the the commands is sent to many nodes in the network).

Regarding claims 13 and 31, Low et al disclose the limitation "wherein the packet switched device handles at least one of managing peer interfaces, managing external interfaces, managing internal resources, managing faults, and managing internal faults at the network edge" (lines 47-50, col. 4).

Regarding claim 18, Low et al disclose the limitation "A network comprising: At least one communication node" (fig. 16B).

3. Claims 8-12,14-17,26-30,32-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AP


Ajit Patel
Primary Examiner